



Signed and Filed: March 26, 2025

Dennis Montali

DENNIS MONTALI
U.S. Bankruptcy Judge

UNITED STATES BANKRUPTCY COURT
NORTHERN DISTRICT OF CALIFORNIA

In re) Bankruptcy Case
) No. 23-30564-DM
THE ROMAN CATHOLIC ARCHBISHOP)
OF SAN FRANCISCO,)
)
)
Debtor.)
)
)

**MEMORANDUM DECISION ON MOTION FOR ORDER AUTHORIZING DISCLOSURE
OF INDEPENDENT REVIEW BOARD MINUTES AND AGGREGATED CLAIMS DATA**

I. INTRODUCTION

On March 13, 2025, the court conducted a hearing on The Official Committee of Unsecured Creditors' ("OCC") Motion ("Motion") for an Order Authorizing Disclosure of Independent Review Board Minutes ("Minutes") and Aggregated Claims Data ("Claims Data") (Dkt. 988). Appearances are noted on the record.

For the reasons explained below, the court will grant the Motion as to the Minutes and grant the Motion, with modifications, regarding the Claims Data.

1 **II. BACKGROUND**

2 Since around 2002, the Debtor has maintained an Independent
3 Review Board ("IRB") that is an advisory board that investigates
4 and makes recommendations directly to the Archbishop concerning
5 cases in which a clergy member is accused of sexual abuse of a
6 minor, along with other related tasks. By the Motion, the OCC
7 seeks "disclosure of non-privileged portions of the IRB Minutes
8 for the sake of public safety because the Archdiocese continues
9 to assure the public that children are safe by emphasizing the
10 role of the IRB's 'expertise' and their 'independent' evaluation
11 of sexual abuse allegations." (Motion, page 1). The Minutes
12 that are specifically identified and which the OCC wants freed
13 from the court's Order Approving Stipulated Protective Order
14 ("Protective Order") (Dkt. 374) are set forth in a sealed
15 Exhibit B to the Motion. The information set forth in Exhibit B
16 is the product of discovery undertaken by the OCC, which
17 discovery is covered by Fed. R. Civ. P. 26(c) ("Rule 26(c)")
18 incorporated by Fed. R. Bankr. P. 7016 and subject to the
19 Protective Order.

20 The OCC also seeks to make public the Claims Data that it
21 has extracted and anonymized from hundreds of confidential
22 proofs of claim filed by abuse survivor claimants (the Survivor
23 Claimants") in this case. The Claims Data is found in Exhibit A
24 to the Motion. It consists of six parts: the age range of
25 survivors at the beginning of abuse; the current age range of
26 survivors; specific types of abuse alleged in the proofs of
27 claim; the names of the perpetrators identified in the claims;
28

1 the parishes and parish schools where the abuses occurred; the
2 non-parish schools or orphanages where the abuses occurred.

3 The Claims Data is subject to the court's Order: (1) Fixing
4 Time for Filing Proofs of Claim; (2) Approving Proof of Claim
5 Forms; (3) Providing Confidential Protocols; and (4) Approving
6 Form and Manner of Notice ("Bar Date Order") (Dkt. 337) and 11
7 U.S.C. § 107(a) and (b) ("Section 107"). The controlling
8 authority that governs this court's disposition in interpreting
9 and applying Section 107 is *In re Roman Catholic Archbishop of*
10 *Portland in Oregon*, 661 F. 3d 417 (9th Cir. 2011) ("*Father M*").
11 *Father M* and the Protective Order dictate the outcome under Rule
12 26(c) insofar as Exhibit B is concerned; Section 107 controls
13 the outcome regarding Exhibit A.¹

14 **III. BANKRUPTCY PURPOSE OF THE MOTION**

15 The Debtor argues there is no bankruptcy purpose for the
16 Motion. As there is no pending objection before the court, no
17 specific provision of the Bankruptcy Code or Rules discussing
18

19
20 ¹ While the Debtor's Opposition and some caselaw interpreting
21 *Father M* tend to blend the separate analyses under Section 107
22 and Rule 26(c), the court clarifies that the text of *Father M*
23 applies a Rule 26(c) analysis to discovery documents that were
24 subject to a protective order, and a Section 107 analysis
25 applies to a sealed memorandum estimating damages due to clergy
26 abuse that was filed on the court's docket. In this case and
27 mirroring *Father M*, a Rule 26(c) analysis is appropriate as to
28 the Minutes that were produced in discovery pursuant to the
Protective Order. A Section 107 analysis is appropriate as to
the Claims Data, which is aggregated from proofs of claim, but
for the court's employment of a claims and noticing agent, would
have been filed directly with the court. The Minutes have only
been filed under seal on this court's docket as part of the
Motion—that alone does not mean the Minutes are "filed with the
court" for Section 107 purposes.

1 the merits of the request, Debtor feels that the Motion is
2 presented for improper purposes. The court disagrees.

3 This is not a situation where a particular claimant is
4 prosecuting civil litigation against the Debtor, wherein the
5 facts and circumstances of whatever occurred were governed by
6 individualized specific facts and applicable law and that could
7 result in civil damages awarded to a single plaintiff. That was
8 the prospect Debtor faced before filing bankruptcy, albeit many
9 times over. Rather, presented here is a much broader question
10 dealing with the function of the bankruptcy court in this
11 substantial case involving hundreds of claims alleging clergy
12 abuse, all of which have been yanked out of traditional state
13 courts and have been thrust into this bankruptcy court, at the
14 Archbishop's behest. This is an increasingly common situation
15 in the reorganization of an entity facing numerous similar tort
16 claims under the Bankruptcy Code, and invariably includes not
17 only the fixing and payment of allowed claims but also some sort
18 of curative, remedial or corrective conduct affecting future
19 actions and the protection of unwitting future victims.²

21 ² See, e.g., *Corrected Order Confirming Debtor's Plan of*
22 *Reorganization Dated October 26, 2016, In re Roman Catholic*
23 *Bishop of Stockton*, Case No. 14-20371-C-11, Dkt. 843 at Ex. 12
24 (containing all non-monetary commitments of the Debtor post-
25 confirmation, including a commitment to publishing a list of
26 clergy members credibly accused of abuse of minors, a letter of
27 apology to all abuse claimants and/or family members, and public
28 forums at each parish and school where abuse had been alleged);
Order Confirming Second Amended Chapter 11 Plan of
Reorganization Dated September 15, 2015, Proposed by the
Archdiocese of Milwaukee, Case No. 11-20059-svk, Dkt. 3322 at
Sec. 13.5 (detailing nonmonetary commitments to child protection
and transparency, including commitment to publishing a list of

1 This is the way the bankruptcy system deals with wildfires,
2 drug purveyors, product defects, and countless other tort
3 liabilities owed to substantial numbers of unwitting and
4 involuntary claimants. The public purpose and the role of the
5 court is obvious and is a critical component of a critical
6 process.

7 In this case, as in many other bankruptcies involving mass
8 torts, the plan resolution is only successful when all parties,
9 including those tort claimants unwillingly brought into the
10 bankruptcy court, feel as though the process is fair and
11 progress is being made. They have an important role in the
12 process, albeit hard to measure in any tangible way. The OCC
13 has made clear that progress towards a consensual resolution is
14 not being made, and while the Debtor disagrees as to that, the
15 Motion serves as a possible step toward a consensually mediated
16 plan. This is an admirable goal.

17 Recently, another bankruptcy court addressed the bankruptcy
18 purpose of ensuring abuse survivors are heard:

19 The reality is that profound human, psychological, and
20 spiritual aspects of church sex abuse cases transcend
21 tort damages. The bankruptcy reorganization process
22 may be proficient in the hard-headed business of
23 marshaling diocesan resources and insurance coverage
24 available to fund tort damage payments, but it does
25 little to heal festering psychological wounds.

24 Anything that promotes reconciliation, catharsis, and
25 solace for sex abuse victims in a chapter 11 case

26
27 clergy members credibly accused of abuse of minors, a letter of
28 apology to all abuse claimants and a written statement of
gratitude to survivors of clergy abuse who were brave enough to
come forward and tell their stories).

1 serves the interests of justice and is a worthy task
2 for a bankruptcy judge.

3 *Memorandum Order on Motion to Authorize Presentation of Survivor*
4 *Statements*, E.D. Cal. Case No. 24-21326-C-11, Doc. 1153, page 2,
5 lines 11-24.

6 The Motion serves a clear bankruptcy purpose, and an
7 argument that no such purpose exists, from the very Debtor who
8 brought these claims and discovery into this court, is not
9 credible and is rejected.

10 **IV. DISCUSSION**

11 A. Exhibit A - Claims Data

12 Section 107(b) "require[s] courts to use care in
13 determining when documents containing sensitive information
14 affecting a person's privacy interests can be made public over
15 that person's objections." *Father M* at 433. Here, the
16 objecting party is the Debtor, and as to the court's inquiry
17 under Section 107, its focus shall be the Debtor's privacy
18 interests and whether the information contained in Exhibit A
19 would be scandalous for the Debtor. The privacy interests of
20 the Survivor Claimants are analyzed in relation to the
21 confidentiality provisions of the Bar Date Order. The court
22 first addresses the interests of the Debtor, then the Survivor
23 Claimants.

24 Subject to certain exceptions, documents filed in a
25 bankruptcy case are public records. Section 107(a). "On
26 request of a party in interest, the bankruptcy court shall . . .
27 protect a person with respect to **scandalous** or defamatory matter
28 contained in a paper filed in a case under this title. Section

1 107(b) (2). The Debtor objects to Exhibit A's being made public
2 on the grounds that Exhibit A contains scandalous matter.

3 Under *Father M*, "matter is 'scandalous' if it is
4 disgraceful, offensive, shameful, and the like . . . allegations
5 that a priest has sexually abused children are most assuredly
6 'scandalous' because they bring discredit on the alleged
7 perpetrators." *Id.*

8 The key difference between the facts of *Father M* and the
9 Motion here is that in *Father M*, the parties seeking to keep
10 sealed a specific memorandum measuring damages related to priest
11 abuse, were two individuals, anonymous priests purportedly named
12 in the memorandum and/or exhibits to the memorandum, and **not** the
13 Roman Catholic Archbishop of Portland, Oregon. Here, the person
14 seeking to keep the Claims Data confidential is the Debtor, The
15 Roman Catholic Archbishop of San Francisco. The scandal of
16 being an individual (and as yet publicly unknown) priest accused
17 of specific scandalous conduct is not at issue here as it was at
18 issue in *Father M*, and the court sees no reason to extend the
19 definition of scandal of accusation beyond the one actually
20 being accused. Section 107 and *Father M* cannot be broadly
21 applied in the way Debtor wishes, but it is clear to this court
22 that even if a specific priest is not seeking the protections of
23 Section 107, allegations against specific priests are indeed
24 scandalous due to the potential discredit brought upon them.
25 Thus, the names of perpetrators in Exhibit A that the Motion
26 seeks to make public must remain confidential. Identification
27 by initial only ensures scandalous material remains protected,
28

1 while allowing for information that would otherwise be deemed
2 public under Section 107(a) to be made public.

3 Next, the court turns to the Bar Date Order and the
4 confidentiality of Survivor Claimants' information. The Bar
5 Date Order sets forth a procedure for those defined as Survivor
6 Claimants (those alleging claims against the Debtor for sexual
7 abuse by persons for which the Debtor was responsible). That
8 procedure was the filing of the Confidential Survivor Proof of
9 Claim and the Optional Confidential Survivor Supplement. The
10 Survivor Proofs of Claim and Optional Confidential Survivor
11 Supplements were to be filed with the claims agent on a strictly
12 confidential basis in order to maintain the privacy of the
13 Survivor Claimants. The purpose of the Bar Date Order was to
14 ensure Survivor Claimants felt safe enough to file claims in a
15 timely fashion to ensure the main purpose of this bankruptcy –
16 administration of the hundreds of claims of Survivor Claimants –
17 was successful.

18 The OCC filed the Motion. Sitting on the OCC are Survivor
19 Claimants who duly represent the interests of Survivor Claimants
20 generally. The OCC in this instance, however, cannot claim to
21 speak for **all** Survivor Claimants on the topic of the strict
22 confidentiality that those Survivor Claimants may have relied on
23 when submitting detailed proofs of claim. Thus, the court will
24 grant the Motion as to the Claims Data, with names of accused
25 priests removed or reduced to initials as discussed above, and
26 only after all Survivor Claimants are given notice and
27 opportunity to opt out of having their anonymized data be a part
28 of the Claims Data. To that end, the OCC should provide a

1 twenty-one (21) day written notice to each Survivor Claimant and
2 any counsel of record to request that any data included in the
3 Claims Data derived from their claims be extracted and excluded
4 from the Claims Data. Counsel for the OCC should meet and
5 confer with counsel for the Debtor to agree on the exact form of
6 the notice, and the court will resolve quickly any disagreement
7 as to that form. The court notes that opt out (that is,
8 requesting that Survivor Claimants respond only if they wish to
9 exclude their information from the aggregated claims data) is
10 appropriate.

11 The Claims Data, so revised, may then be made public by the
12 OCC.

13 B. Exhibit B - The Minutes

14 *Father M* sets forth the two-step test of Rule 26(c) a court
15 must follow upon a request to make public information that is
16 currently confidential pursuant to a protective order. "First,
17 it must determine whether particularized harm will result from
18 disclosure of information to the public Second, if the
19 court concludes that such harm will result from disclosure of
20 the discovery documents, then it must proceed to balance the
21 public and private interests to decide whether maintaining a
22 protective order is necessary." *Id.* at 424 (internal citations
23 and quotation marks omitted).

24 As to the first step, Debtor does not allege any particular
25 harm that will result from the disclosure of the Minutes to the
26 public, beyond a general claim that the material of the Minutes
27 is scandalous pursuant to Section 107, as the Minutes contain
28 deliberations on the merits of abuse allegations against clergy

1 members and other employees of the Debtor. In Rule 26(c)
2 analysis, a general allegation that the material is the type of
3 "broad allegation[] of harm, unsubstantiated by specific
4 examples of articulated reasoning" that does not satisfy the
5 Rule 26(c) test. *Id.*

6 Without any particular harm articulated by Debtor, the
7 analysis under Rule 26(c) must end here. Without any particular
8 harm looming, there is no need to go to the second *Father M*
9 step. The Minutes should be made public under presumption of
10 public access to information produced during discovery. As to
11 whether material in the Minutes is scandalous to any accused
12 individual under Section 107, the Minutes are already anonymized
13 (via initialization or nicknames) and redacted, so the scandal
14 related to naming an individual accused of abuse of a minor is
15 already avoided.

16 Accordingly, the court will enter two orders consistent
17 with this Memorandum Decision. The first will be as to the
18 Minutes entirely, and counsel for the OCC should serve and
19 upload that order. The second will be granting the Motion in
20 part as to the Claims Data, to be served and uploaded after the
21 time has run for Survivor Claimants to opt out as to their
22 information.

23
24 **END OF MEMORANDUM DECISION**
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COURT SERVICE LIST

ECF Recipients